

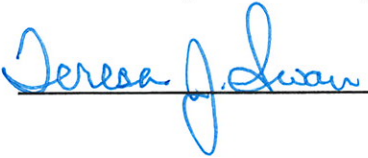


CITY OF KIRKLAND

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

ADVISORY REPORT FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Eric R. Shields, AICP, Planning Director

From:  , Teresa, Swan, Project Planner

Date: May 9, 2006

File: ZON06-00012

Comment Period: April 20-May 8, 2006

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I. INTRODUCTION

A. APPLICATION

1. Applicant: Donna Gaw, City of Kirkland's Information Technology Department.
2. Site Location: Marina Park at 17 Lakeshore Plaza Drive (see Attachment 1).
3. Request: Install a small wireless equipment box (15.0" x 7.3" x 5.7") on the ceiling inside the Pavilion building and two small antennas (12" long x 1" wide) flush against the wall next to one of the clerestory windows on the east exterior of the Pavilion building in Marina Park. The equipment will be painted to match the color of the building (see Attachments 2 through 5).

The wireless equipment will provide free public wireless Internet service in the park and will be part of a network connection to provide free wireless service in the downtown core.

4. Review Process: Process I, Planning Director decision.
5. Summary of Key Issues and Conclusions: Key issues are the criteria for approval, the location and concealment of the equipment, and views. See Sections II.E. and II.F. below for a discussion on the key issues.

B. RECOMMENDATIONS

Based on Statements of Fact and Conclusions (Section II), and Attachments in this report, I recommend approval of this application subject to the following conditions:

1. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances. Attachment 6, Development Standards, is provided in the report to familiarize the applicant with some of the additional development regulations. This attachment does not include all of the additional regulations. When a condition of approval conflicts with a development standards in Attachment 6, the condition of approval shall be followed (see Conclusion II.I.2.).
2. The antennas shall be painted to match the exterior siding and the equipment box shall be painted to match the interior ceiling wall of the Pavilion building (See Conclusion II.F.4).

II. FINDINGS OF FACT AND CONCLUSIONS

A. SITE DESCRIPTION

1. Site Development and Zoning:
 - a. Facts:
 - 1) Size: The site is 156,456 square feet (3.59 acres) in size.
 - 2) Land Use: The subject property is the site of Marina Park. Marina Park includes a 66-slip transient moorage facility and fishing pier, temporary

moorage for commercial tour boats, a single-lane boat ramp, a performing arts pavilion, beach and picnic areas, pedestrian trails and restrooms (see Attachment 2).

- 3) Zoning: The site is zoned Park/Public Use (P).
 - 4) Shoreline Designation: The site is located within the Urban Mixed 1 Shoreline Environment (see Attachment 7). RCW.90.58.030 exempts development that does not exceed the total cost or fair market value of \$5,000. The fair market value of the two antennas is less than \$5,000. Since the wireless equipment box will be placed on the interior of the building rather than on the exterior, the equipment box is not considered a development action.
 - 5) Terrain and Vegetation: The site is fairly level, rising gradually from the lake level at 21.85 feet to approximately 29 feet at the park's northeast corner. The site has been landscaped with a variety of trees, shrubs and grasses. A cluster of tall pine trees is located west of the Pavilion building and east of the boat launch (See Attachment 2).
- b. Conclusions: The size and land use of the site are not constraining factors for the proposal. The project is exempt from a shoreline permit.
2. Neighboring Development and Zoning:
- a. Facts: The subject property is surrounded by the following zones and uses:
 - 1) North: Multi-family residential and commercial development zoned CBD-2 (Central Business District) and WD1 (Waterfront District)
 - 2) South: Multi-family residential zoned CBD-2
 - 3) East: Commercial development, zoned CBD-2
 - 4) West: Lake Washington
 - b. Conclusion: The neighboring development and zoning is not a constraining factor in the review of this application.

B. HISTORY

1. Facts: Several development actions have occurred on the subject property. SDP-71-1 allowed the City to establish a storm sewer outfall for Market Street. CZ-81-80 and SD-81-81 allowed the removal of 700 cubic yards of sediment which had accumulated at the storm sewer outfall, fishing pier, and boat launch. SD-IIB-87-36 allowed the renovation and extension of the public pier to provide a tour boat dock for Harbortown Center. SD-IIB-88-139 allowed dredging of sediment from the boat launch area. SD-90-58 allowed the renovation of the public pier. SD-SCUP-91-102 allowed the renovation of the park, including repair of the shoreline bulkhead, creation of a natural beach shoreline, enhancement of pedestrian shoreline trails, redesign of the sitting and other passive areas, and improvements to the landscaping, irrigation, drainage and utilities. SHR03-00002 allowed the replacement of the existing public restroom with a new 707 square foot restroom building.

2. Conclusion: The previous development actions are not constraining factors in the review of this application.
3. Facts:
 - a. One of the City's near term information technology goals is to provide free public wireless Internet service in the downtown parks (Marina Park and Peter Kirk Park) and within the downtown business core. To achieve this goal, the City's Information Technology Department hired a consultant to perform a study to layout a wireless network plan. The wireless equipment in each area is interconnected to create the network.
 - b. Pursuant to KZC Chapter 117, the proposed wireless equipment on the Pavilion building in Marina Park requires a Process I permit. The wireless equipment to be mounted on the existing ball fields in Peter Kirk Park requires a Planning Official decision. The equipment to be installed on several light fixtures in the downtown right-of-ways and in the Lakeshore Plaza parking area require a street use permit through the Public Works Department.
4. Conclusion: To achieve the City's technology goal of providing wireless Internet service in the downtown parks and business core area, the City needs to receive approval of the Process I permit for the Marina Park proposal, the Planning Official decision for the Peter Kirk Park proposal and a street use permit for the right-of-way proposal.

C. PUBLIC COMMENT

The public comment period for this application started on April 20, 2006 and ended on May 8, 2006. No public comments were received.

D. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The proposed is exempt from the State Environmental Policy Act under WAC-197-11-800 (25).

E. APPROVAL CRITERIA

1. Fact: KZC 145.45.2 states that a Process I application may be approved if:
 - a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
 - b. It is consistent with the public health, safety, and welfare.
2. Conclusion: The proposal complies with the criteria in KZC 145.45.2. It is consistent with all applicable development regulations (see Sections II.F.) and the Comprehensive Plan (see Section II.G.). In addition, it is consistent with the public health, safety, and welfare because the two antennas are small, will not alter views to the lake and beyond from the adjacent residences and businesses, and will blend into the architectural design of the Pavilion building. The equipment box will not be visible since it will be located inside the Pavilion building. The proposal will provide a convenient service and cost saving benefit to the public by providing free wireless Internet access in the park and in the downtown business core area.

F. DEVELOPMENT REGULATIONS – CHAPTER 117

Location of Wireless Equipment in a Residential Zone (includes park uses)

1. Facts:

- a. Pursuant to KZC Section 117.15, park property is classified as a residential zone for the purposes of wireless regulations. KZC Section 117.40, Footnote 3, requires the applicant to “demonstrate that diligent effort has been made to locate the proposed facility in a non-residential zone, and that due to valid considerations, including physical constraints or technological feasibility, no other location is available.”
- b. The City’s Information Technology Department hired a consultant to perform a wireless study to determine how to provide optimal coverage of a wireless signal within Marina Park and Peter Kirk Park and in the downtown business core area. The study concluded that one of the wireless antennas and equipment boxes needs to be located near the top of the Pavilion building or on a 35 foot high tower pole just west of the Pavilion building within the existing trees. An equipment box and antennas in either location would provide the necessary access to connect equipment boxes of two other antennas in the right-of-way near the park and to several other equipment boxes and antennas in the downtown core area (see Attachment 3).
- c. Two other wireless equipment boxes and antennas will be installed to provide the network in the park: one box will be on a light pole located on the sidewalk on the north side of the Lake Shore Plaza parking lot near Suite #44 of the Kirkland Lake Building at 105 Central Way and the other box will be on the light pole on the sidewalk at the northwest corner of the Kirkland Waterfront Market building at 150 Lake Street South. The equipment box to be located on the light pole near 150 Lake Street South will in turn communicate with three other equipment boxes strategically located in the downtown business area to provide additional wireless Internet access (see Attachment 3).
- d. The tower pole option was determined to not be the preferred solution for the following reasons. First, a tower pole would cost substantially more than attaching the equipment to the Pavilion building (over \$10,000 plus labor). Second, the tower pole option would require a Department of Ecology shoreline permit due to the threshold exemption cost. Third, the pole may interfere with views from the adjacent residences and businesses and from the nearby right-of-way to the lake and beyond. Fourth, the tower pole would add visual clutter to the park.
- e. Marina Park is surrounded by two story commercial and residential buildings and is at a slightly lower elevation than the buildings. A wireless network requires direct, unobstructed connection to each equipment box and antenna. The height and location of the Pavilion building are optimal for not only providing adequate wireless coverage within the park, including the boat dock and boat ramp, but to serve as the primary communication point for two other strategically located wireless equipment boxes that make up the wireless network in the Marina Park area and parts of downtown.

- f. Co-location is not an option. There is no wireless tower pole located to the west of the park where the antennas and equipment box need to be located. Mounting the wireless equipment on an adjacent commercial building to the east or north would not provide the needed coverage within the park and connection to the other wireless equipment that will be installed on city light poles within the downtown core.
2. Conclusion: The applicant has provided support to show that locating the wireless equipment in the park is the only option to provide complete wireless coverage in the park, including to the boat dock and boat launch, and to the downtown core area. Physical constraints, technological feasibility and existing conditions require locating the equipment in the park and not in the adjacent commercial zone.

Concealment

3. Facts: KZC 117.65.3
 - a. Pursuant to KCZ 117.65.3.c, "the antennas mounted one or more building facades shall: (a) use color and materials to provide architectural compatibility with the building; (b) be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible; and (c) not project above the wall on which it is mounted."
 - b. Pursuant to KCZ 117.65.3.d, "the cable or conduit shall be routed through the inside of any new tower, utility pole or other support structure."
 - c. The two antennas are proposed to be under the eave of the clerestory roof and flush against a side of one of the clerestory windows of the Pavilion building. The antennas will be painted to match the exterior color of the building (see Attachment 4).
 - d. The equipment box will be installed on the ceiling of the Pavilion building and painted to match the interior color (see Attachment 5). The fiber cable will be placed in a small metal tubing and attached to the inside of the Pavilion building along one of the support beams and then extended up to the equipment box. A fiber cable will then be extended from the equipment box to the antennas through a corner edge of the clerestory window. The building already has metal cable tubing and an electrical box mounted on the inside for lighting.
4. Conclusions: The applicant should paint the exterior antennas and interior equipment box to match the color of the building. The location of the equipment meets the zoning code requirements for concealment.

Views

5. Facts: KZC 117.65.11
 - a. Pursuant to KCZ 117. 65. 11, "personal wireless service facilities (PWSF) must be located and oriented in such a way as to minimize view blockage."
 - b. The proposed two antennas are small (12" in length and 1" in diameter) and are proposed to be mounted flush to the exterior of the building and below the eave of the clerestory. The antennas will not block views from any direction (see Attachment 4).
 - c. The equipment box will be located on the ceiling inside the Pavilion and will not be visible from the exterior (see Attachment 5).

6. Conclusion: The wireless equipment will not block views from any direction.

G. SHORELINE MASTER PROGRAM (SMP)

1. Facts:

- a. KMC Section 24.05.215 designates the subject property as being in the Urban Mixed 1 (UM1) shoreline environment (see Attachment 7).
- b. The proposed wireless equipment and service would be classified as a government facility under KMC Section 24.05.35.150.
- c. KMC Section 24.05.110 establishes that a government facility within the UM1 Shoreline environment is an allowed use, subject to obtaining a Substantial Development Permit.
- d. The proposal is exempt from a Substantial Development Permit under RCW 58.030.3 (e) because it is below the cost threshold for a permit. However, WAC 173-27-040 states that although an action may be exempt for a Substantial Development Permit, the action is not exempt from compliance with the act requirements.

2. Conclusion: The proposal is consistent with the requirements of the State and Kirkland Shoreline Master Program. The proposal is a government facility within the park, both of which are an allowed uses in Urban Mixed 1 (UM1) shoreline environment.

H. COMPREHENSIVE PLAN

3. Facts:

- a. The subject property is located within the Moss Bay neighborhood. Figure C-2 on page XVD-3 designates the subject property for park (see Attachment 8)
- b. Park users can be seen sitting on the benches at Marina Park or on the bleachers at Peter Kirk Park using their computers. The desire to have access to the Internet, even in park facilities, reflects the change in technology and how technology is now an essential part of daily life.

4. Conclusion: The proposal to provide wireless Internet service in the park is consistent with the designation of the subject property for a park.

5. Facts:

- a. Figure C-4 on page XV. D-7 identifies a territorial view extending across Marina Park towards Lake Washington (see Attachment 9).
- b. As discussed above under views in Section II.F, Development Regulations, the antennas are small and would be located flush against the Pavilion building wall. The wireless equipment box would be placed inside the Pavilion building and not be visible from the exterior (see Attachment 4 and 5).

6. Conclusion: The proposal will not block views to the lake and beyond.

I. DEVELOPMENT STANDARDS

1. Fact: Additional comments and requirements placed on the project are found in the Development Standards in Attachment 6.
2. Conclusion: The applicant should follow the requirements set forth in Attachment 6.

III. SUBSEQUENT MODIFICATIONS

Modifications to the approval may be requested and reviewed pursuant to the applicable modification procedures and criteria in effect at the time of the requested modification.

IV. APPEALS AND JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for an appeal. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

A. APPEALS

Appeal to the Hearing Examiner:

KZC 145.60 allows the Planning Director's decision to be appealed by the applicant or any person who submitted written comments or information to the Planning Director. A party who signed a petition may not appeal unless such party also submitted independent written comments or information. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., May 26, 2006, fourteen (14) calendar days following the postmarked date of distribution of the Director's decision.

B. JUDICIAL REVIEW

KZC 145.110 allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

V. LAPSE OF APPROVAL

The applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under KZC Chapter 117 within one (1) year after the final approval of the City of Kirkland on the matter, or the decision becomes void. Provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the one year is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity or other actions. The applicant must substantially complete the development activity or other actions approved under KZC Chapter 117 and complete the applicable conditions listed on the Notice of Decision within two (2) years after the final approval on the matter, or the decision becomes void. For development activity or other actions with phased construction, lapse of approval may be extended when approved under KZC Chapter 117 and made a condition of the Notice of Decision.

VI. APPENDICES

Attachments 1 through 9 are attached.

1. Vicinity Map
2. Site Plan
3. Applicant's project description and response to application questionnaire
4. Photo-simulation of the two exterior antennas as viewed from the east side of the Pavilion building
5. Photo-simulation of the interior equipment box as viewed inside the Pavilion building

6. Development Standards
7. KMC Section 24.05.215
8. Comprehensive Plan, Figure C-2 on page XV.D-3
9. Comprehensive Plan, Figure C-4 on page XV.D-7

VII. PARTIES OF RECORD

Applicant: Donna Gaw, Network and Operations Manager, City's IT Department
Department of Parks and Community Services: Jennifer Schroder, Parks and Community Services Director
Department of Planning and Community Development

Review by Planning Director:

I concur

☒

I do not concur

☐

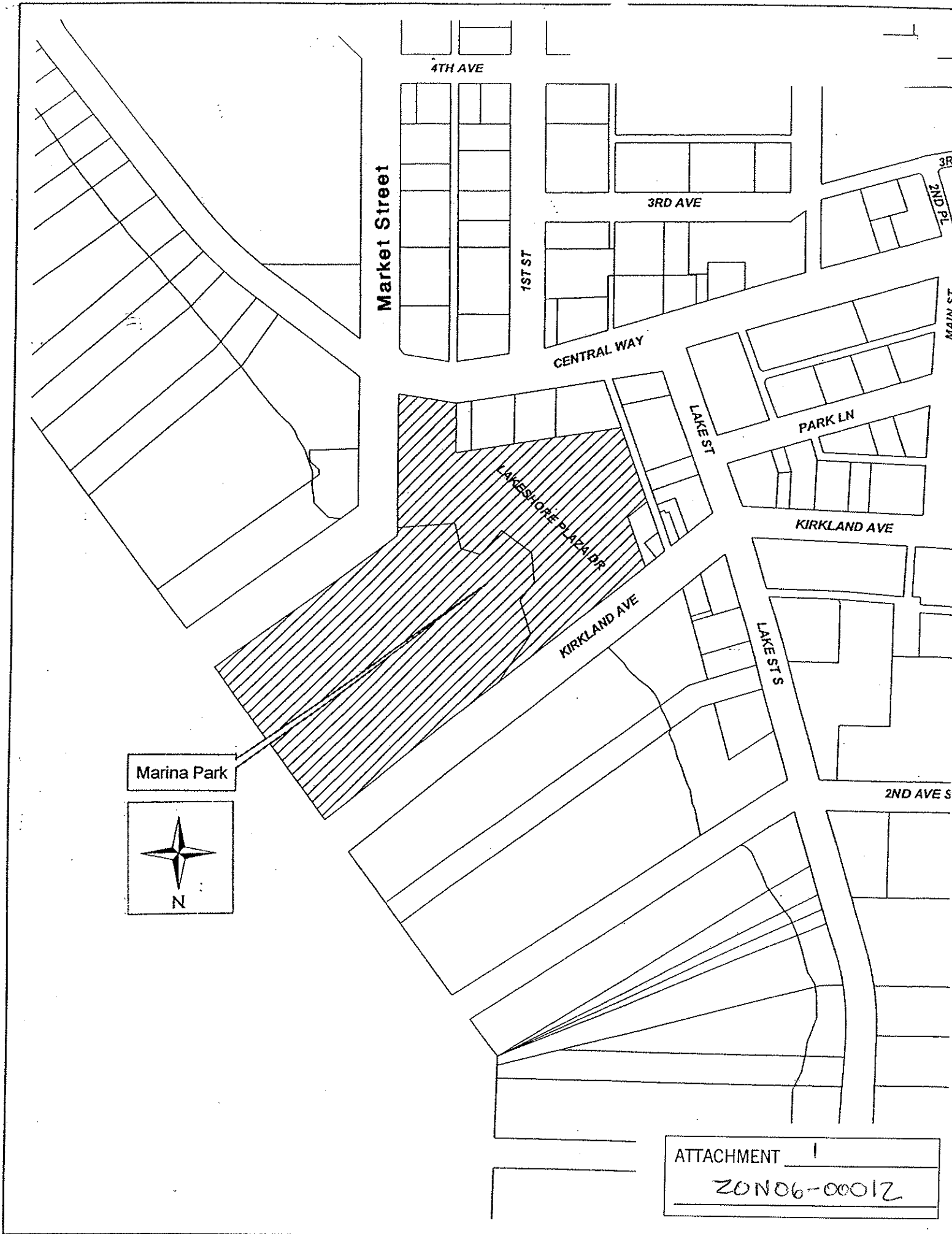
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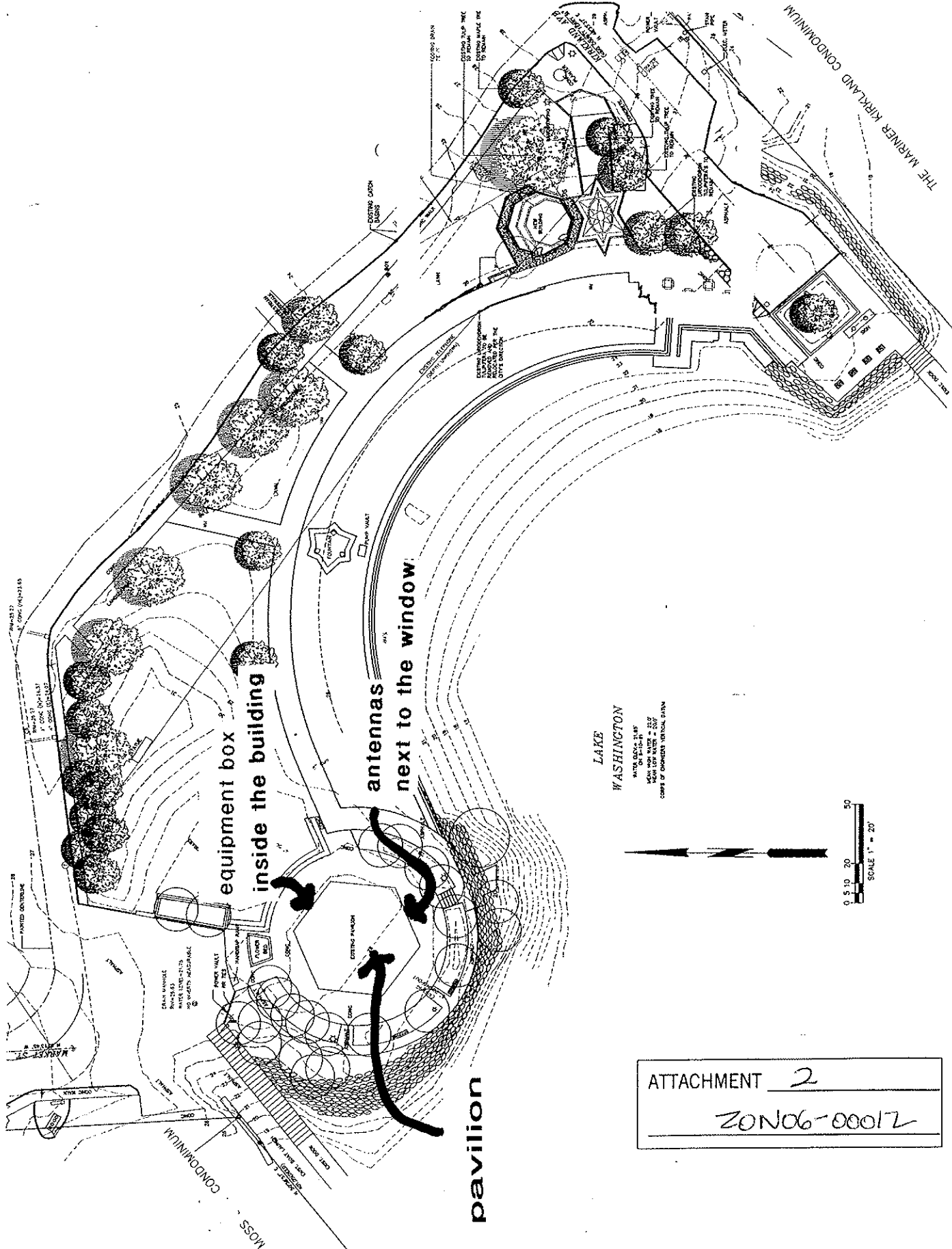
Eric R. Shields

5/9/06

Date



pavilion wireless equipment project




ATTACHMENT 2

21006-00012



CITY OF KIRKLAND
Information Technology Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050
www.ci.kirkland.wa.us

MEMORANDUM

To: Teresa Swan
From: Donna Gaw 
Date: April 11, 2006
Subject: Personal Wireless Service Facility Application

Description of Proposal

The City of Kirkland is conducting a pilot project that is scheduled to start in late spring or early summer of 2006 and go through the summer of 2007, to provide free public wireless Internet access in Marina Park and Peter Kirk Park as well as in some areas of the downtown core. Wireless networking technology is emerging as a new way to enhance the quality of life, provide information, and support economic development. Many cities, both nationwide and in Washington State, either have deployed wireless networks or are evaluating wireless networks. We believe that wireless networks providing free access for citizens and visitors in select locations supports the City Council's view that communication with citizens is important, and that Kirkland should offer at least similar amenities as other cities for its citizens and visitors.

We request approval of our proposal to mount a wireless access point box and two associated antennas on the Marina Park Pavilion in the locations noted in the attached pictures. The access point box shown in picture #1 measures 15.0" x 7.3" x 5.7" and will be painted, if necessary, to color match the beam where it will be attached. The access point box will be placed on the ceiling inside the Pavilion as shown in picture #1. The location of this box is such that it does not block views and blends into the Pavilion.

The two associated antennas shown in picture #2 measure 1 inch in diameter and are 12 inches long. The antennas will be installed next to the clerestory windows on the east exterior side of the Pavilion. They too will be painted to color match, if necessary, to the frame of the Pavilion. The antennas are very small, do not block views and will not appear above the roof line as shown in picture #2.

The City standardizes its system using Cisco networking equipment and selected the Cisco branded wireless access point equipment to maintain consistency and to reduce the complexity of our managed network. The equipment is the minimum size available from Cisco for this particular application. This equipment makes no noise – it does contain a motor or a fan.

Power to the wireless access point box will be provided from the existing power box on the east side of the boat launch. A small power cable will run from the power box, through the landscaped area to the east, under the existing paved path and then to the base of the northwest

ATTACHMENT	3
ZON06-00012	

column of the Pavilion. From there, the cable will be placed in a small metal piping and run alongside an existing piping (for lighting) up to the ceiling of the Pavilion and then connected to the wireless access point box.

After conducting a survey for optimal coverage of the wireless signal within Marina Park and to the downtown core area, it was determined that one of the access point boxes needed to be located in the Pavilion. The height and location of this building are optimal not only to provide the best coverage for the park and adjacent boat docks, but to serve as the primary communication point for two other strategically located access points that make up the wireless network in the Marina Park area and parts of downtown. We were unable to find a location to share or co-locate this equipment. The two other access points referenced here will be located as follows: one will be on a light pole located on the sidewalk on the north side of the Lake Shore Plaza parking lot near Suite #44 of the Kirkland Lake Building on 105 Central Way; and the other will be on the light pole on the sidewalk at the northwest corner of the Kirkland Waterfront Market building at 150 Lake Street South. The access point that will be located on the light pole near 150 Lake Street South, will in turn communicate with three other access points strategically located in the downtown area to provide additional wireless Internet access.

FCC License and Compliance with FCC, FAA and City codes

The wireless signal transmitted from these access point equipment operates in an unlicensed frequency of the radio spectrum defined by the FCC and does not require any special licensing agreement with the FCC. Based on radio frequency spectrum analysis conducted as part of the site survey, this equipment does not interfere with transmission or reception of other communication signals. If a residence or business already has their own wireless access point and their computer wants to connect to the City's access point instead, a simple selection criterion on their computer will redirect it back to the correct location.

Furthermore, by signing this letter, the City agrees to be in compliance with FCC, FAA and City codes.

Response to Application Questionnaire

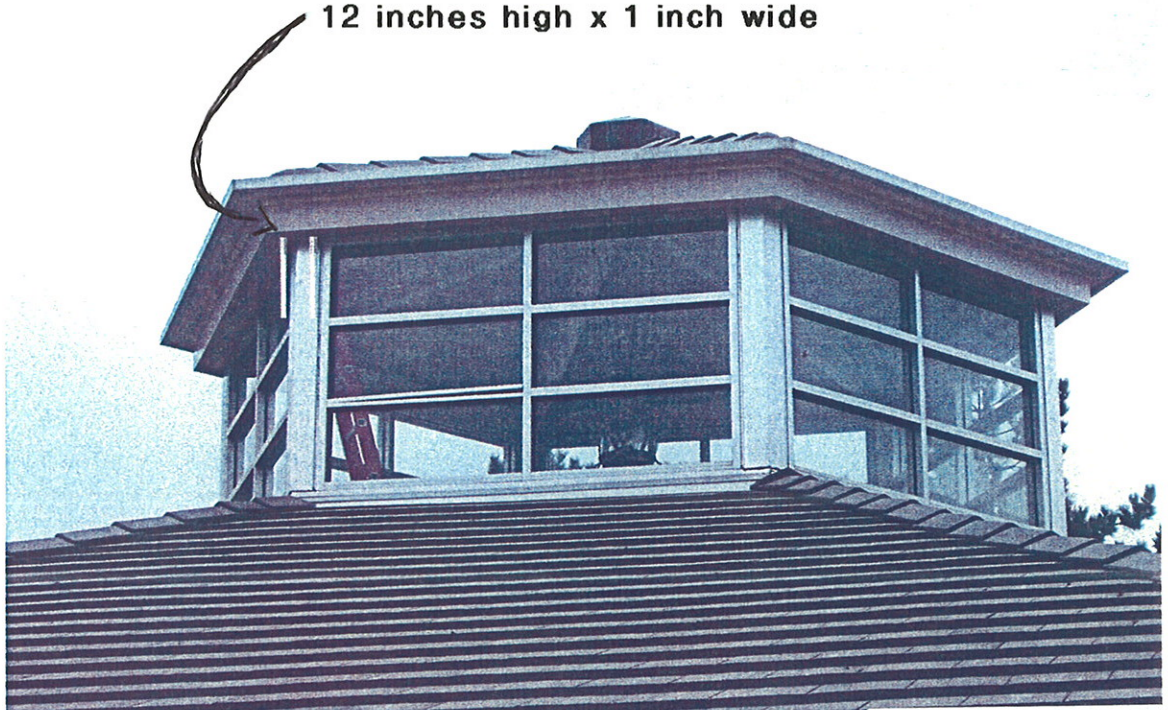
- a. The proposal is to locate wireless box and antennas on an existing building and not on a tower. A tower was considered, but the Pavilion option prevents possible view blockage, visual clutter that a tower may cause, and needed grading and excavation to install a tower. Also, the Pavilion is less costly to install and the location of the equipment can be adjusted if there is a need to alter or expand the wireless network in the downtown.
- b. Visual and physical impacts will be minimized by placing the wireless box on the ceiling inside the Pavilion. The box is small (15.0" x 7.3" x 5.7") and will be painted to match the interior of the building. The two small antennas (12 inches long by 1 inch in diameter) will be flush against the clerestory siding next to the windows to blend into the architectural design of the building and painted to match the exterior color of the building.
- c. Placement, painting and small size of the equipment will be the concealment technology used.

antennas



antennas

12 inches high x 1 inch wide



ATTACHMENT 4

ZON06-00017

Interior of the pavilion

Equipment to be painted to match ceiling

equipment box
15 inch x 7.3 inch x 5.7 inch



CITY OF KIRKLAND

Planning and Community Development Department

123 Fifth Avenue, Kirkland, WA 98033 425.587-3225

www.ci.kirkland.wa.us

DEVELOPMENT STANDARDS LIST

File: Marina Park Wireless Project

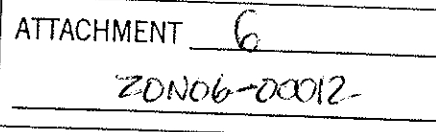
Zoning Code Standards

117.65.13. Noise. The installation and operation of PWSF shall comply with the noise standards set forth in KZC.115.95.

145.22.2 Public Notice Signs. Within seven (7) calendar days after the end of the 21-day period following the City's final decision on the permit, the applicant shall remove all public notice signs.

F:\Templates\Pcd-Plnr\Development Standards.doc

1/15/04



N

LEGEND

- C 1 Conservancy Environment 1
- C 2 Conservancy Environment 2
- UM 1 Urban Mixed 1
- UM 2 Urban Mixed 2
- UR 1 Urban Residential 1
- UR 2 Urban Residential 2
- SR Suburban Residential



Shoreline Master Program
Jurisdiction and
Associated Wetlands *

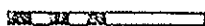


Environment Boundaries



City Limits

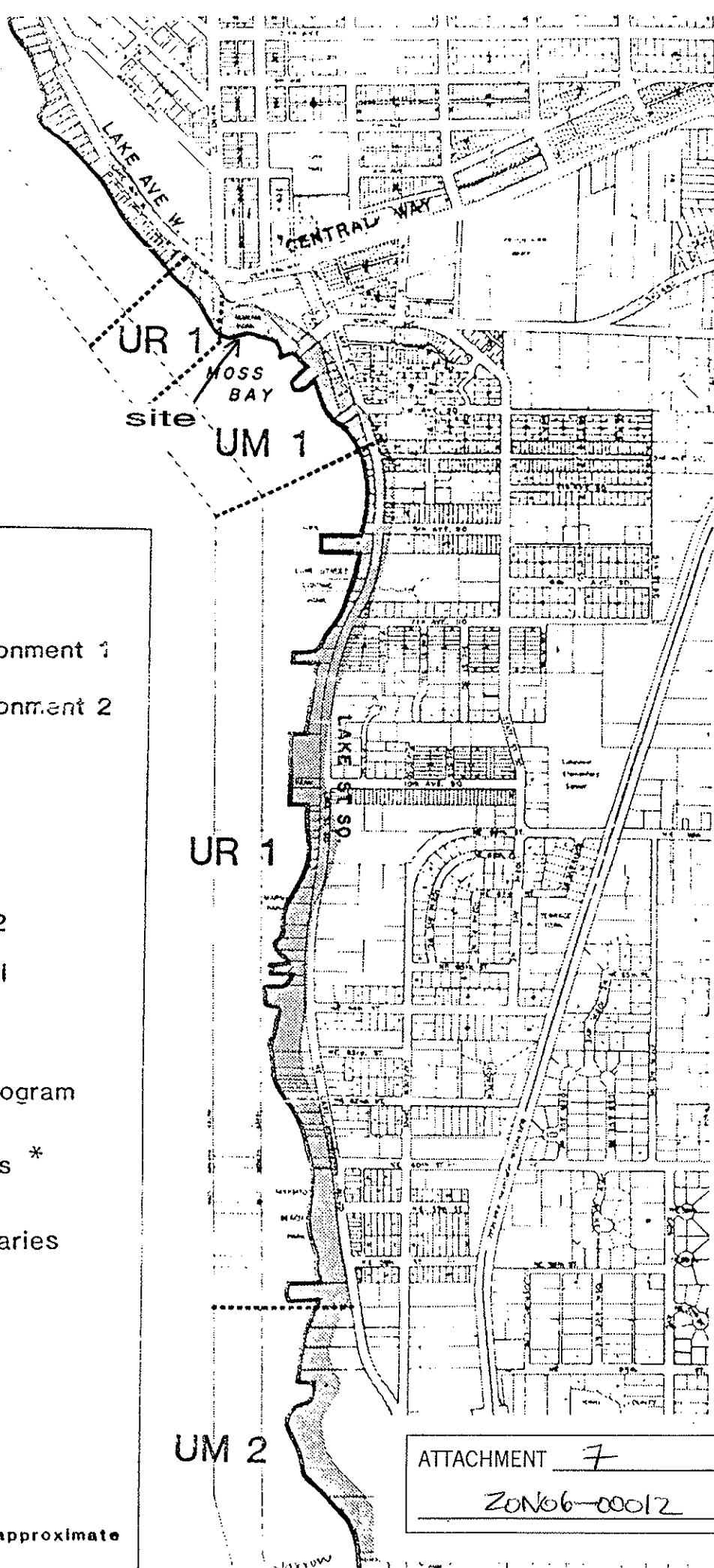
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feet

KMC Section 24.05.215

* SMP jurisdiction boundaries are approximate



ATTACHMENT

7

ZON06-00012

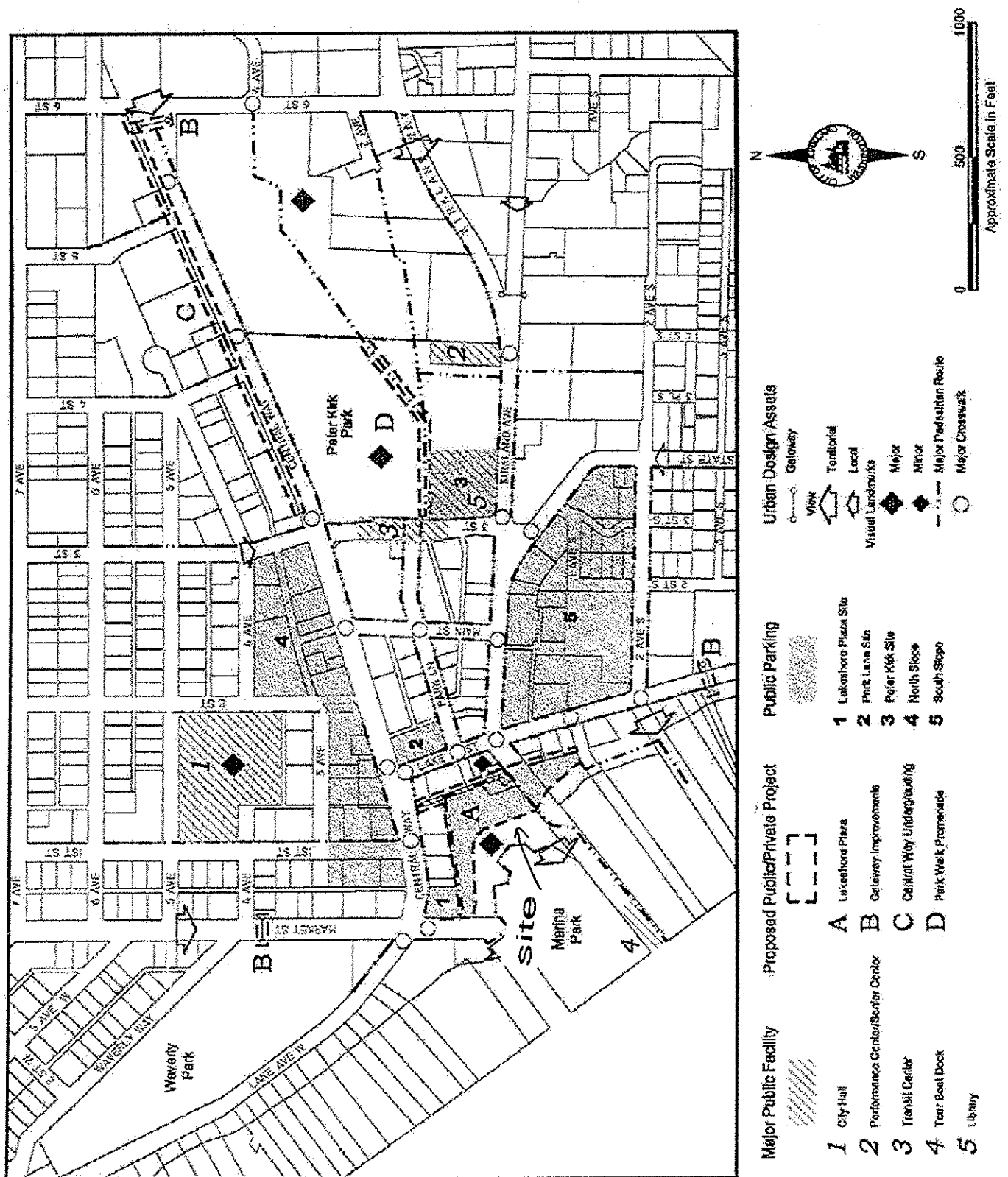


Figure C-4: Downtown Master Plan